

By James Gray

H J.R. No. 10

A JOINT RESOLUTION

1 proposing a constitutional amendment relating to the terms of
2 office of the chief justice and justices of the supreme court, the
3 presiding judge and the judges of the court of criminal appeals,
4 the chief justices and the justices of the courts of appeals, and
5 the district judges.

6 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Article V, Section 2, of the Texas Constitution
8 is amended to read as follows:

9 Sec. 2. The Supreme Court shall consist of the Chief Justice
10 and eight Justices, any five of whom shall constitute a quorum, and
11 the concurrence of five shall be necessary to a decision of a case;
12 provided, that when the business of the court may require, the
13 court may sit in sections as designated by the court to hear
14 argument of causes and to consider applications for writs of error
15 or other preliminary matters. No person shall be eligible to serve
16 in the office of Chief Justice or Justice of the Supreme Court
17 unless the person is licensed to practice law in this state and is,
18 at the time of election, a citizen of the United States and of this
19 state, and has attained the age of thirty-five years, and has been
20 a practicing lawyer, or a lawyer and judge of a court of record
21 together at least ten years. The Chief Justice and the [Said]
22 Justices shall be elected [~~three-of-them-each-two-years~~] by the
23 qualified voters of the state at a general election; shall hold
24 their offices for staggered terms of ten [six] years, or until

1 their successors are elected and qualified; and shall each receive
2 such compensation as shall be provided by law. In case of a
3 vacancy in the office of the Chief Justice or any Justice of the
4 Supreme Court, the Governor shall fill the vacancy with the advice
5 and consent of the Senate as provided by Article IV, Section 12,
6 and Article V, Section 28, of this Constitution until the next
7 general election for state officers, and at such general election
8 the vacancy for the unexpired term shall be filled by election by
9 the qualified voters of the state. [~~The Justices of the Supreme~~
10 ~~Court who may be in office at the time this amendment takes effect~~
11 ~~shall continue in office until the expiration of their term of~~
12 ~~office under the present Constitution, and until their successors~~
13 ~~are elected and qualified.~~]

14 SECTION 2. Article V, Section 4, of the Texas Constitution
15 is amended to read as follows:

16 Sec. 4. (a) The Court of Criminal Appeals shall consist of
17 eight Judges and one Presiding Judge. The Judges shall have the
18 same qualifications and receive the same salaries as the Associate
19 Justices of the Supreme Court, and the Presiding Judge shall have
20 the same qualifications and receive the same salary as the Chief
21 Justice of the Supreme Court. The Presiding Judge and the Judges
22 shall be elected by the qualified voters of the state at a general
23 election and shall hold their offices for staggered terms [~~a term~~]
24 of 10 [~~six~~] years. In case of a vacancy in the office of a Judge
25 of the Court of Criminal Appeals, the Governor shall, with the
26 advice and consent of the Senate as provided by Article IV, Section
27 12, and Article V, Section 28, of this Constitution, fill said

1 vacancy by appointment until the next succeeding general election.

2 **(b)** For the purpose of hearing cases, the Court of Criminal
3 Appeals may sit in panels of three Judges, the designation thereof
4 to be under rules established by the court. In a panel of three
5 Judges, two Judges shall constitute a quorum and the concurrence of
6 two Judges shall be necessary for a decision. The Presiding Judge,
7 under rules established by the court, shall convene the court en
8 banc for the transaction of all other business and may convene the
9 court en banc for the purpose of hearing cases. The court must sit
10 en banc during proceedings involving capital punishment and other
11 cases as required by law. When convened en banc, five Judges shall
12 constitute a quorum and the concurrence of five Judges shall be
13 necessary for a decision. The Court of Criminal Appeals may
14 appoint Commissioners in aid of the Court of Criminal Appeals as
15 provided by law.

16 SECTION 3. Article V, Section 6, of the Texas Constitution
17 is amended to read as follows:

18 Sec. 6. The state shall be divided into courts of appeals
19 districts, with each district having a Chief Justice, two or more
20 other Justices, and such other officials as may be provided by law.
21 The Justices shall have the qualifications prescribed for Justices
22 of the Supreme Court. The Court of Appeals may sit in sections as
23 authorized by law. The concurrence of a majority of the judges
24 sitting in a section is necessary to decide a case. Said Court of
25 Appeals shall have appellate jurisdiction co-extensive with the
26 limits of their respective districts, which shall extend to all
27 cases of which the District Courts or County Courts have original

1 or appellate jurisdiction, under such restrictions and regulations
2 as may be prescribed by law. Provided, that the decision of said
3 courts shall be conclusive on all questions of fact brought before
4 them on appeal or error. Said courts shall have such other
5 jurisdiction, original and appellate, as may be prescribed by law.

6 Each of said Courts of Appeals shall hold its sessions at a
7 place in its district to be designated by the Legislature, and at
8 such time as may be prescribed by law. Said Justices shall be
9 elected by the qualified voters of their respective districts at a
10 general election, for a term of eight [~~six~~] years and shall receive
11 for their services the sum provided by law. Each Court of Appeals
12 shall appoint a clerk in the same manner as the clerk of the
13 Supreme Court which clerk shall receive such compensation as may be
14 fixed by law.

15 All constitutional and statutory references to the Courts of
16 Civil Appeals shall be construed to mean the Courts of Appeals.

17 SECTION 4. Article V, Section 7, of the Texas Constitution
18 is amended to read as follows:

19 Sec. 7. (a) The State shall be divided into judicial
20 districts, with each district having one or more Judges as may be
21 provided by law or by this Constitution. Each district judge shall
22 be elected by the qualified voters at a General Election and shall
23 be a citizen of the United States and of this State, who is
24 licensed to practice law in this State and has been a practicing
25 lawyer or a Judge of a Court in this State, or both combined, for
26 four (4) years next preceding his election, who has resided in the
27 district in which he was elected for two (2) years next preceding

1 his election, and who shall reside in his district during his term
2 of office and hold his office for the period of six (6) [~~four-(4)~~]
3 years, and who shall receive for his services an annual salary to
4 be fixed by the Legislature. The Court shall conduct its
5 proceedings at the county seat of the county in which the case is
6 pending, except as otherwise provided by law. He shall hold the
7 regular terms of his Court at the County Seat of each County in his
8 district in such manner as may be prescribed by law. The
9 Legislature shall have power by General or Special Laws to make
10 such provisions concerning the terms or sessions of each Court as
11 it may deem necessary.

12 (b) The Legislature shall also provide for the holding of
13 District Court when the Judge thereof is absent, or is from any
14 cause disabled or disqualified from presiding.

15 SECTION 5. Article V, Section 28, of the Texas Constitution
16 is amended to read as follows:

17 Sec. 28. Vacancies in the office of judges of the Supreme
18 Court, the Court of Criminal Appeals, the Court of Civil Appeals
19 and the District Courts shall be filled by the Governor with the
20 advice and consent of the Senate as provided by Article IV, Section
21 12, of this Constitution until the next succeeding General
22 Election; and vacancies in the office of County Judge and Justices
23 of the Peace shall be filled by the Commissioners Court until the
24 next succeeding General Election.

25 SECTION 6. The following temporary provision is added to the
26 Texas Constitution:

27 TEMPORARY PROVISION. (a) This temporary provision applies

1 to the constitutional amendment proposed by the 71st Legislature,
2 Regular Session, 1989, relating to the terms of office of the chief
3 justice and justices of the supreme court, the presiding judge and
4 the judges of the court of criminal appeals, the chief justices and
5 the justices of the courts of appeals, and the district judges.
6 This provision expires January 1, 1991.

7 (b) The constitutional amendment takes effect January 1,
8 1990.

9 (c) The terms of the chief justice and justices of the
10 supreme court and the presiding judges and the judges of the court
11 of criminal appeals expire January 1, 1991, regardless of the
12 length of term being served. The chief justice of the supreme
13 court and the presiding judge of the court of criminal appeals
14 elected for terms beginning January 1, 1991, serve, unless
15 otherwise removed from office, terms ending January 1, 2001. The
16 eight justices of the supreme court and the eight judges of the
17 court of criminal appeals elected for terms beginning January 1,
18 1991, shall draw lots so that two justices and two judges serve
19 terms ending January 1, 1993, two justices and two judges serve
20 terms ending January 1, 1995, two justices and two judges serve
21 terms ending January 1, 1997, and two justices and two judges serve
22 terms ending January 1, 1999.

23 (d) Chief justices and justices of the courts of appeals and
24 district judges serve, unless otherwise removed from office, for
25 the term to which elected. A chief justice or justice of a court
26 of appeals or a district judge elected after the effective date of
27 the amendment is entitled to serve, unless otherwise removed from

1 office, for the term provided by the amendment.

2 SECTION 7. This proposed constitutional amendment shall be
3 submitted to the voters at an election to be held November 7, 1989.
4 The ballot shall be printed to provide for voting for or against
5 the proposition: "The constitutional amendment increasing the
6 terms of office of the chief justice and justices of the supreme
7 court, the presiding judge and judges of the court of criminal
8 appeals, the chief justices and justices of the court of appeals,
9 and the district judges."

HOUSE JOINT RESOLUTION

proposing a constitutional amendment relating to the terms of office of the chief justice and justices of the supreme court, the presiding judge and the judges of the court of criminal appeals, the chief justices and the justices of the courts of appeals, and the district judges.

~~NOV 16 1988~~ 1. Filed with the Chief Clerk.

JAN 23 1989

2. Read first time and referred to Committee on

Judicial Affairs

3. Reported favorably (as amended) and sent to Printer at
(as substituted)

4. Printed and distributed at

5. Sent to Committee on Calendars at

6. Read second time (amended) and (finally) passed to Third Reading by a Record Vote of _____ yeas, _____ nays, _____ present, not voting.

7. Motion to reconsider and table the vote by which H.J.R. _____ was ordered engrossed prevailed (failed) by (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, _____ present, not voting).

8. Read third time (amended) and finally adopted (failed of adoption) by a Record Vote of _____ yeas, _____ nays, _____ present, not voting.

9. Caption ordered amended to conform to body of resolution.

10. Motion to reconsider and table the vote by which H.J.R. _____ was finally adopted prevailed (failed) by a (Non-Record Vote) Record Vote of _____ yeas, _____ nays, and _____ present, not voting).

11. Ordered Engrossed at

12. Engrossed.

13. Returned to Chief Clerk at

14. Sent to the Senate.

Chief Clerk of the House

15. Received from the House

16. Read, referred to Committee on

17. Reported favorably

18. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

19. Ordered not printed.

20. Regular order of business suspended by

(a viva voce vote.)

(_____ yeas, _____ nays.)

21. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of _____ yeas, _____ nays.

22. Read second time

passed to third reading by:
(a viva voce vote.)

(_____ yeas, _____ nays.)

_____ 23. Caption ordered amended to conform to body of bill.

_____ 24. Senate and Constitutional 3-Day Rules suspended by vote of _____ yeas,
_____ nays to place bill on third reading and final passage.

_____ 25. Read third time and passed by
(a viva voce vote.)
(_____ yeas, _____ nays.)

OTHER ACTION:

OTHER ACTION:

Secretary of the Senate

_____ 26. Returned to the House.

_____ 27. Received from the Senate (with amendments.)
(as substituted.)

_____ 28. House (Concurred) (Refused to Concur) in Senate (Amendments) by a (Non-Record
(Substitute) Vote) (Record Vote of _____ yeas, _____ nays, _____ present,
not voting).

_____ 29. Conference Committee Ordered.

_____ 30. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record
Vote of _____ yeas, _____ nays, and _____ present, not voting).

_____ 31. Ordered Enrolled at _____